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Letter dated 5 April 1996 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General

On instructions from my Government, I wish to draw your attention to our concerns regarding the recent publication by the United Nations entitled "Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties". The section of that Summary entitled "Participation by succession" contains, in paragraph 297, language suggesting that the Federal Republic of Yugoslavia (Serbia and Montenegro) constitutes the continuation of the former Socialist Federal Republic of Yugoslavia. To the extent that the Summary could be so construed, we object to any such suggestion. We also note that the paragraph in fact contains no actual discussion of depositary practice as it relates to the Federal Republic of Yugoslavia (Serbia and Montenegro).

It has been the consistent position of my Government that the Socialist Federal Republic of Yugoslavia has ceased to exist and that no State represents the continuation of the Socialist Federal Republic of Yugoslavia. This position is fully consistent with relevant United Nations Security Council and General Assembly resolutions as well as with the opinions of the Arbitration Commission of the Conference for Peace in Yugoslavia.

In Security Council resolution 777 (1992) of 19 September 1992, the Council considered that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist", and the Council recalled its resolution 757 (1992) of 30 May 1992, in which it stated that "the claim by the Federal

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Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". In these circumstances, the Council considered that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations", and it recommended to the General Assembly that "it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations". In General Assembly resolution 47/1 of 22 September 1992, the Assembly responded to the Security Council's recommendation and decided that "the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations".

Recently, in Security Council resolution 1022 of 22 November 1995, the Council confirmed with regard to the State formerly known as the Socialist Federal Republic of Yugoslavia "that that State had ceased to exist".

Opinions rendered by the Arbitration Commission of the Conference for Peace in Yugoslavia also support the position that the Socialist Federal Republic of Yugoslavia has ceased to exist and that no State represents its continuation. In opinion number 8 of 4 July 1992, the Arbitration Commission concluded that "the process of dissolution of the Socialist Federal Republic of Yugoslavia ... is now complete and that the Socialist Federal Republic of Yugoslavia no longer exists". In opinion number 10 of the same date, the Arbitration Commission stated that "none of the resulting entities could claim to be the sole successor to the Socialist Federal Republic of Yugoslavia" and, specifically, that "the Federal Republic of Yugoslavia (Serbia and Montenegro) ... cannot be considered the sole successor to the Socialist Federal Republic of Yugoslavia".

Accordingly, in so far as the language in paragraph 297 of the Summary is inconsistent with the legal situation described, my Government wishes to make clear our firm objection. Our expression of views on this particular matter should not be understood as implying a position with respect to any other aspects of the Summary.

We should be grateful if you would have this letter circulated as a document of the General Assembly under agenda item 20 of the preliminary list and as a document of the Security Council.

(Signed) Madeleine K. ALBRIGHT